HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 26622 of 2007

Dated 13th December, 2007

Between

Kanamatareddi Suryakantamma

…Petitioner

and

The Agent to the Government, (TW), W.G. district, and, ors

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 26622 of 2007

ORDER:

This Writ Petition is filed seeking Writ of Mandamus to declare the action of the first respondent in not passing orders on the appeal and stay application filed by the petitioner on 6-11-2007 against the order of eviction passed in SR.No.50 of 2005, dated 13-11-2005 by the Special Deputy Collector (Tribal Welfare), Polavaram, West Godavari district, as illegal and arbitrary.

The petitioner claims to be the owner and possessor of the land admeasuring Ac.7.42 cents covered by R.S.No. 352/2,3, & 4 of Darbagudem village, Jeelumilli Mandal in West Godavari District. On the ground that there was transfer of the said land in favour of the petitioner in violation of the A.P. Scheduled Areas Land Transfer Regulation 1/1959, as amended by Regulation 1/1970, the Second Respondent-Special Deputy Collector (Tribal Welfare), Polavaram,

passed orders of eviction dated 13-11-2005 in SR.No.50 of 2005 in exercise of powers under Regulation 3(2)(a) of the A.P. Scheduled Areas Land Transfer Regulation 1/1959, as amended by Regulation 1/1970. It is submitted that, against the order of the primary authority dated 13-11-2005, the petitioner has preferred appeal before the first respondent-Agent to the Government (Tribal Welfare) on 6-11-2007, along with an application for grant of stay. On the ground that in spite of the appeal filed by the petitioner, no orders have been passed and on other hand, respondents are taking steps for eviction of the petitioner, she has come up with this Writ Petition.

It is submitted by the learned Counsel for the petitioner that the land in question has fallen to the share of the petitioner in the partition on 15-4-1968 and since then, she is in actual and physical possession of the said land. It is further submitted that the transfer of the said land is not in contravention of the A.P. Scheduled Areas Land Transfer Regulation 1/1959, as amended by Regulation 1/1970.

Heard the learned Counsel for the petitioner and the learned Government Pleader appearing for the respondents.

In view of the pendency of the appeal filed by the petitioner before the first respondent, it is not desirable to go into merits of the case, whether the transfer of the said land in favour of the petitioner is in violation of the A.P. Scheduled Areas Land Transfer Regulation 1/1959, as amended by Regulation 1/1970, or not. However, as it is stated that the petitioner is in continuous possession of the subject land since 1968, I deem it appropriate to allow the petitioner in possession of the subject land till the disposal of the appeal by the first respondent. In that view of the matter, I direct the first respondent to dispose of the appeal filed by the petitioner on 6-11-2007 against the

order dated 13-11-2005 passed in SR.No. 50 of 2005 by the second respondent as expeditiously as possible. Till the disposal of the appeal, the order dated 13-11-2005 passed by the second respondent shall remain suspended and there shall be a further direction to the respondents to allow the petitioner to cultivate the subject land, pending disposal of the appeal.

Subject to the above direction, the Writ Petition is disposed of at the admission stage. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 13-12-2007
CC by Monday (BO)Msnr.